

Serial No.: 10/056,074

**REMARKS**

The undersigned attorney thanks Examiner Waxman for his careful review of this patent application. Reconsideration of the present application is respectfully requested in light of the above amendments to the application in view of the following remarks. Prior to entry of this amendment, claims 2, 4 - 7, 32, 34, 35, 37, 39, and 42 - 59 were pending in the application. Claims 2, 4 - 7, 32, 34, 35, 37, 39, and 42 - 59 were rejected. Upon entry of this Response, claims 2, 4 - 7, 32, 34, 35, 37, 39, and 42 - 59 will be pending in the application.

**Claims 2, 4 - 7, 32, 34, 35, 37, 39, and 42 - 59 Are Not Anticipated By Nguyen**

In paragraph 1, the Official Action alleges that claims 2, 4 - 7, 32, 34, 35, 37, 39, and 42 - 59 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,006,267 to Nguyen et al. (hereinafter "*Nguyen*"). Regarding claims 7, 34, 35, and 42, the Office Action alleged that *Nguyen* discloses a method and computer readable medium for automatically sensing a transmission method including transmitting at least one packet to a first host, via a first transmission system, receiving a response from the first host to a packet transmitted via the first transmission method, transmitting at least one packet to a first host via a second transmission method, receiving a response from the first host, to a packet transmitted via the second transmission method, and configuring for communication with the first host in accordance with the second transmission method if a response is received via the second transmission method. The Office Action then alleges that *Nguyen* discloses a packet network and that any packet transmitted in a packet network comprises an address. The Office Action then goes on to allege that it is inherent to *Nguyen* that the response comprises an address and also that *Nguyen* discloses that the response received in accordance with the second transmission method would inherently include a source destination address. In order to communicate they would inherently have to be configured using the source and/or destination address within the response.

*Nguyen* describes a method and system for facilitating communications between hosts with different communication protocol capabilities. The method and system selecting the most optimal means for disseminating information from any one host to one or more destination hosts. The method and system describe the use of a matrix for storing verified methods of communications between a pair of hosts. Each matrix entry contains two or three values to

Serial No.: 10/056,074

indicate the known methods of communications between each host pair. A first value indicates whether unreliable multicast communications between the host pairs are possible, not possible, or not yet determined. Similarly, a second value indicates whether unreliable unicast communications between the host pairs are possible, not possible, or not yet determined. Finally, a third optional value may be used to indicate whether reliable unicast communications between the host pairs are possible, not possible, or not yet determined. When the host pair want to communicate with each other one of the hosts initiates connection to a server host, which is connected to a multicast-capable router and whose communications are not impeded by a firewall. The server host stores the matrix and determines how the host pairs are capable of communicating with each other. The server host examines the matrix entry for the host pair and based on the values stored in the matrix entry establishes a communications protocol for host pair in the following order, unreliable multicast, unreliable unicast, and reliable unicast.

The invention of claim 7 describes a method for automatically sensing a transmission method in a network, in which at least one packet is transmitted to a first host using a first transmission method. Next, a response is received from the first host in response to the packet transmitted using the first transmission method. Next, a determination is made whether the first transmission system must be used. If the first transmission method must be used then an address from the response to the packet transmitted using the first transmission method is used to configure the communication link with the first host using the first transmission method. However, if the determination is made that the first transmission method does not have to be used, then at least one packet is transmitted to the first host using a second transmission method. If the first host provides a response to at least one packet using the second transmission method, then the communications link is configured using an address from the response in accordance with the second transmission method. However, if a response from the first host using the second transmission method is not received, then the communications link is configured for communications with the first host using the second transmission method using an address from the response in accordance with the first transmission method.

To anticipate a claim, the reference must teach each and every element of the claim. MPEP § 2131. *Nguyen* fails to describe, teach, or suggest [configuring for communications with the first host using the second transmission method using an address from the response in

*added*

Serial No.: 10/056,074

accordance with the first transmission method if a response from the first host using the second transmission method was not received. Nor does *Nguyen* describe, teach, or suggest determining whether the host must use the first transmission system. Rather, *Nguyen* only describes maintaining a matrix of available communication protocols for each host pair. The protocol follows a predetermined order of unreliable multicast, unreliable unicast, and reliable unicast. The protocol is used only if each of the hosts have indicated that they can communicate using the appropriate protocol. In fact, if the reachability test fails for both the multicast and unicast protocols, then the server acts as an intermediary for the communication between the two host. Thus, in *Nguyen*, if the reachability test for multicast protocol fails, then the multicast communications between the hosts is not allowed. The invention of claim 7 on the other hand, allows for direct communications between each of the hosts using the second communications protocol even if a response using the second communications protocol from the first host is not received. The invention of claim 7 allows communications using the second transmission method by using an address from the response in accordance with the first transmission method if a response from the first host using the second transmission method was not received. *Same*

Therefore, because *Nguyen* fails to describe, teach, or suggest each and every element of claim 7, claim 7 is not anticipated by *Nguyen*. Therefore, it is respectfully submitted that claims 7 is patentable over the cited reference and it is requested that the rejection of claim 7 be withdrawn. Because claims 2, 4, 8 – 24 depend upon claim 7, it is respectfully submitted that claims 2, 4, and 8 – 24 are also allowable over the cited reference and it is requested that rejection of these claims be withdrawn.

The foregoing arguments are equally applicable to claims 25, 34, 35, and 42, and all claims that depend there from, respectively. Thus, it is respectfully submitted that claims 25, 34, 35, and 42, and all claims that depend therefrom, respectively, are patentable over the cited reference and it is requested that the rejection of claims 25, 34, 35, and 42, and all claims that depend respectively therefrom be withdrawn.

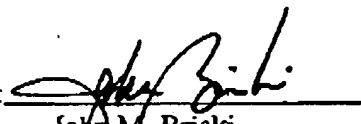
Serial No.: 10/056,074

**CONCLUSION**

It is respectfully submitted that claims 2, 4, 7 - 32, and 34, 35, 37, 39, and 42 -59 are in condition for allowance and that each point raised in the Official Action with regard to these claims has been fully addressed. Therefore, it is respectfully requested that the rejections to claims 2, 4, 7 - 32, 34, 35, 37, 39, and 42 - 59 be withdrawn and that the case be processed to issuance in accordance with Patent Office Business.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please contact John Briski at 404.885.3141.

Respectfully submitted,

By:   
John M. Briski  
Reg. No. 44,562

TROUTMAN SANDERS LLP  
Bank of America Plaza  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, Georgia 30308-2216  
(404) 885-3141